IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 15901 of 2004(R)

PETITIONER:

C.V.DILEEP KUMAR, S/O.VASUDEVAN,
LOWER DIVISION CLERK, OFFICE OF THE DEPUTY
DIRECTOR OF EDUCATION, THRISSUR NOW RESIDING AT
CHAKKALAKKAL HOUSE, P.O,.PERUMCHERRY, OLLUR,
THRISSUR DISTRICT.

BY ADV. SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW

RESPONDENTS:

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1. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR.

2. THE ASSISTANT EDUCATIONAL OFFICER,
CHERPUR, THRISSUR DISTRICT.

3. THE ADMINISTRATIVE ASSISTANT, OFFICE
OF THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR.

4. THE TREASURY OFFICER, THRISSUR.

5. THE KERALA STATE FINANCIAL ENTERPRISES,
LTD., THIRUVANANTHAPURAM REP. BY ITS
MANAGING DIRECTOR.

6. THE SPECIAL DEPUTY TAHSILDAR(RR-V),
KERALA STATE FINANCIAL ENTERPRISES LTD,
P.B.NO.510, BHADRATHA, THRISSUR.

7. THE BRANCH MANAGER, THANIYAM PANCHAYATH
SERVICE CO-OPERATIVE BANK LTD., R-387,
PERINGOTTUKARA BRANCH, THRISSUR.

8. THE BRANCH MANAGER, CATHOLIC SYRIAN
BANK, NATTIKA BRANCH, THRISSUR.

9. T.A.DEVADAS, S/O.AYYAPPAN,
U.D.CLERK(UNDER SUSPENSION), OFFICE OF THE
ASSISTANT EDUCATIONAL OFFICER, CHERPPU,
RESIDING AT THAIPARAMBATH HOUSE, PERINGOTTUKARA,
THRISSUR.

10. SMT.SNEHALATHA, W/O.T.A.DEVADAS,
THAIPARAMBATH HOUSE, PERINGOTTUKARA, THRISSUR.

11. LATHIKADEVI, AGED 39 YEARS, WIFE OF A.R. AJAYAKUMAR,
ALOTH HOUSE, MANANAGAR, THALORE P.O., THRISSUR.

ADDL. R11 IS IMPLEADED AS PER ORDER DATED 21.7.2004 IN I.A. 8704 OF 2004

R9 & R10 BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA
R1 TO R4 BY GOVERNMENT PLEADER SRI. T.B. RAMANI
R5 & R6 BY ADV. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.
R8 BY ADV. SRI.PETER THARAKAN
R7 BY ADV. SRI.P.V.SURENDRANATH
SRI.B.JAYASANKAR
SRI.P.K.SAJEEV
SRI.M.L.SAJEEVAN, SC, KSFE LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29/11/2007, ALONG WITH WPC 24557 OF 2004,
THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX (WPC 15901 OF 2004)

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE EMPLOYMENT CERTIFICATE DATED 22.5.2004 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER.

EXT.P2 TRUE COPY OF THE LETTER NO. SDT/TSR/1613/02-03 DSATED 26.4.2004 ISSUED BY THE 6TH RESPONDENT TO THE FIRST RESPONDENT.

EXT.P3 TRUE COPY OF THE LETTER NO. RR/SDT/TSR/1613/02-03 DATED 12.3.2003 ISSUED BY THE 6TH RESPONDENT TO THE 1ST RESPONDENT.

EXT.P4 TRUE COPY OF THE PROHIBITORY ORDER DATED 12.3.2003 ISSUED BY THE 6TH RESPONDENT TO THE FIRST RESPONDENT.

EXT.P5 TRUE COPY OF THE LETTER NO. C2-26248 DATED 2.12.2003 ISSUED BY THE FIRST RESPONDENT TO THE 6TH RESPONDENT.

EXT.P6 TRUE COPY OF THE LETTER NO. C2-10421/04 DATED 22.5.2004 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.

EXT.P7 TRUE COPY OF THE LETTER NO. 884/TDR/B3/03 DATED 30.9.2003 SENT BY THE SUB INSPECTOR OF POLICE, ANTHIKKAD POLICE STATION TO THE DEPUTY INSPECTOR GENERAL OF POLICE, CENTRAL ZONE, THRISSUR.

7TH RESPONDENT'S EXHIBITS:

EXT.R7(a) TRUE COPY OF THE EMPLOYMENT CERTIFICATE OF THE PETITIONER WITH AN AGREEMENT FOR RECOVERY FROSM THE SALARY AND OTHER FUNDS DUE TO HIM AS THE SURETY GRANTED THE LOAN TO THE 10TH RESPONDENT TO EFFECT SUCH RECOVERIES DATED 4.10.1999

EXT.R7(b) TRUE COPY OF THE EMPLOYMENT CERTIFICATE WITH RESPECT TO THE PETITIONER WITH AN AGREEMENT FOR RECOVERY FROM THE SALARY AND OTHER FUNDS DUE TO HER AGREEMENT OF 10TH RESPONDENT TO EFFECT SUCH RECOVERIES DATED 21.7.2000

11TH RESPONDENT'S EXHIBITS:

EXT.R11(a) TRUE COPY OF THE COMMUNICATION DATED 29.4.2003 ISSUED BY THE BRANCH MANAGER, KSFE PUDUKKAD ADDRESSED TO THE THIRD RESPONDENT.

EXT.R11(b) TRUE COPY OF THE COMMUNICATION DATED 23.1.2004 ISSUED BY THE 7TH RESPONDENT ADDRESSED TO THE THIRD RESPONDENT.

EXT.R11(c) TRUE COPY OF THE REPRESENTATION DATED 5.6.2004 MADE TO THE FOURTH RESPONDENT.

EXT.R11(d) TRUE COPY OF THE COMMUNICATION DATED 29.4.2003 ISSUED BY THE GENERAL AMANAGER, KSFE, PUDUKKAD BRANCH ADDRESSED TO THE 2ND RESPONDENT.

EXT.R11(e) TRUE COPY OF THE COMMUNICATION DATED 23.1.2004 ISSUED BY THE 6TH RESPONDENT ADDRESSED TO THE 2ND RESPONDENT.

EXT.R11(f) TRUE COPY OF THE CERTIFICATE DATED 30.7.2004 ISSUED BY THE 2ND RESPONDENT.

EXT.R11(g) TRUE COPY OF THE REF. NO. SL 359 DATED 18.10.2003 ISSUED BY THE MANAGER, THRISSUR DIST. CO-OP. BANK LTD., BRANCH, TRIPRAYAR TO THE 2ND RESPONDENT.

TRUE COPY

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 15901 & 24557 OF 2004

Dated this the 29th day of November, 2007

JUDGMENT

Both the Writ Petitions are filed by persons who stood as sureties for the loan availed by one Sri. T.A. Devadas from KSFE, who was an employee in the education department. The said Devadas is one of the respondents in both the Writ Petitions. The only case of the petitioners is that debtor having retired will get huge retirement benefits, and the same will be sufficient to wipe off the entire debt. This Court found that the claim is quite bona fide and realistic and therefore this Court directed the Government to pay retirement benefit of the debtor to KSFE. However, review petition, R.P.No. 701 of 2004 was filed by the Government against interim order stating that disciplinary proceedings were initiated against the debtor and unless the disciplinary proceedings are finalised, retirement benefits cannot be released to him. The only reason stated in the Review Petition is the pendency of a criminal case against the debtor which was filed by the petitioner in WPC 15901 of 2004, that too pertains to the very same

loan. Obviously Government has not raised any claim against the debtor. In any case, since Sri. Devadas retired from service on 31.5.2004, R.P. was disposed of on 24.9.2004 directing the Govt. to proceed with disciplinary proceedings. More than four years are over from the date of retirement of the debtor and the order in the Review Petition was also issued long back. If the Government was earnest in pursuing disciplinary proceedings it would have been completed at least by now. Counsel appearing for the debtor has stated that Government has no claim against him and he has no idea about the progress of the disciplinary proceedings, if any. I do not think a Government Corporation should suffer on account of laches on the part of Government in completing the disciplinary proceedings initiated against the debtor. In the circumstances, W.Ps. are disposed of directing respondents 1 to 4 in WPC 15901 of 2004 to immediately release claim amounts of respondents 5, 7 and 8 and the creditors in W.P.C.No. 24557 of 2004 from the retirement benefits of the 9th respondent therein, that is the debtor. If the total amount is not sufficient to settle the dues of all the claimants, the Disbursing Officer

will consider priority after hearing the creditors and based on documents executed by them. In any case, full payment will be released to the creditors within a period of one month from the date of receipt of a copy of this judgment. Petitioners will produce a copy of this judgment before the concerned respondents for compliance. If disciplinary proceedings are pending, Government is free to pursue the same and if there is any claim against the debtor he can be personally proceeded against. Recovery against the petitioners will stand stayed until disbursement as above and thereafter recovery can be continued against the petitioners only if the retirement benefits of the debtor are inadequate to meet the liability and recovery should be limited to the balance amount.

(C.N. RAMACHANDRAN NAIR)
Judge